APPENDIX

STATUTES INVOLVED.

1. Relating to jurisdiction:

Section 240, Judicial Code, as amended (U. S. Code, Title 28, Section 347).

(a) In any case, civil or criminal, in a circuit court of appeals, or in the Court of Appeals of the District of Columbia, it shall be competent for the Supreme Court of the United States, upon the petition of any party thereto, whether Government or other litigant, to require by certiorari, either before or after a judgment or decree by such lower court, that the cause be certified to the Supreme Court for determination by it with the same power and authority, and with like effect, as if the cause had been brought there by unrestricted writ of error or appeal.

* * * *

(c) No judgment or decree of a circuit court of appeals or of the Court of Appeals of the District of Columbia shall be subject to review by the Supreme Court otherwise than as provided in this section.

Section 1141, Internal Revenue Code (U. S. Code, Title 26, Section 1141).

COURTS OF REVIEW.

(a) JURISDICTION. The Circuit Court of Appeals and the United States Court of Appeals for the District of Columbia shall have exclusive jurisdiction to review the decisions of the Board, except as provided in section 239 of the Judicial Code, as amended, 43 Stat. 938 (U. S. C., Title 28, Sect. 346); and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 240 of the Judicial Code, as amended, 43 Stat. 938 (U. S. C., Title 28, Sect. 347).

(b) VENUE.

(1) IN GENERAL. Except as provided in paragraph 2, such decisions may be reviewed by the Circuit Court of Appeals for the circuit in which is located the collector's office to which was made the return of the tax in respect of which the liability arises or, if no return was made, then by the United States Court of Appeals for the District of Columbia.

(2) * * * *

(3) APPLICATION OF SUBSECTION. This subsection shall be applicable to all decisions of the Board rendered on and after May 10, 1934, and section 1002 of the Revenue Act of 1926, 44 Stat. 110, as in force prior to May 10, 1934, shall be applicable to such decisions rendered prior thereto, except that paragraph 2 of this subsection may be applied to any such decision rendered prior to May 10, 1934.

(c) POWERS.

(1) TO AFFIRM, MODIFY, OR REVERSE. Upon such review, such courts shall have power to affirm or, if the decision of the Board is not in accordance with law, to modify or to reverse the decision of the Board, with or without remanding the case for a rehearing, as justice may require. * * *

* * * *

2. Relating to deduction for depreciation:

Revenue Act of 1926, Section 214 (a) (8), 44 Stats. at Large 27, and Revenue Act of 1928, Section 23 (k), 45 Stats. at Large 800.

In computing net income there shall be allowed as deductions:

* * * *

A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence.

* * * *

3. Relating to adjustment for past depreciation of "basis" for determining gain or loss:

Revenue Act of 1926, Section 202 (b) (2), (44 Stats. at Large 12) and Revenue Act of 1928, Section 111 (b) (2), (45 Stats. at Large 815).

> The basis shall be diminished by the amount of the deductions for exhaustion, wear and tear, obsolescence, amortization, and depletion which have since the acquisition of the property been allowable in respect of such property under this Act or prior income tax laws. * * * In addition, if the property was acquired before March 1, 1913, the basis (if other than the fair market value as of March 1, 1913) shall be diminished in the amount of exhaustion, wear and tear, obsolescence, and depletion actually sustained before such date.

4. Relating to accounting methods:

Revenue Act of 1926, Section 212 (b) (44 Stats. at Large 23), and Revenue Act of 1928, Section 41, (45 Stats. at Large 805).

> The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Commissioner does clearly reflect the income. * * *